



IN THE HIGH COURT OF DELHI

ITA Nos.262/02,87/01,88/01,91/01,
24/02,30/02,31/02 & 240/02.

Date of Decision: November 20, 2002.

ITA No.262/02:

Commissioner of Income-tax, Delhi-XIII.....Appellant

Versus

M/s.Vinay Bharatram and Sons.....Respondent

ITA No.87/01:

Commissioner of Income-tax, Delhi-I.....Appellant

Versus

M/s.Vivek Bharatram and Sons (HUF).....Respondent

ITA No.88/01:

Commissioner of Income-tax, Delhi-I.....Appellant

Versus

M/s.Vinay Bharatram and Sons (HUF).....Respondent

ITA No.91/01:

Commissioner of Income-tax, Delhi-I.....Appellant

Versus

M/s.Arun Bharatram and Sons (HUF).....Respondent

ITA No.24/02:

Commissioner of Income-tax, Delhi-XIII.....Appellant

Versus

M/s.Arun Bharatram and Sons.....Respondent

ITA No.30/02:

Commissioner of Income-tax, Delhi-XIII.....Appellant

Versus

M/s.Vinay Bharatram and Sons.....Respondent

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ITA No.31/02:

Commissioner of Income-tax, Delhi-XIII.....Appellant

Versus

M/s.Vivek Bharatram and Family.....Respondent

ITA No.240/02:

Commissioner of Income-tax, Delhi-XIII.....Appellant

Versus

M/s.Vivek Bharatram and Family.....Respondent

Advocates:Mr.R.C.Pandey with Mr.Ajay Jha for the
RevenueMr.D.N.Sawhney with Mr.M.P.Rastogi for the
assesseeCORAM:THE HON'BLE MR.JUSTICE D.K. JAIN
THE HON'BLE MR.JUSTICE MADAN B.LOKUR

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest?

D.K.JAIN, J. (Oral):

* These eight appeals by the Revenue under section 260A of the Income-tax Act, 1961 (for short the Act) are directed against the orders passed by the Income-tax Appellate Tribunal, New Delhi (Tribunal for short) in ITA Nos.1209/Del/96 dated 19.12.2001; 6089(DEL)/1995 & 6090(DEL)/1995 dated 02.08.2000;

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6089(/DEL)/1995 & 6090(DEL)/1995 dated 02.08.2000;
6088/Del/1995 dated 30.11.2000; 3152/Del/1995,
3153/Del/1995 & 3154/Del/1995 dated 15.06.2001;
3152/Del/1995, 3153/Del/1995 & 3154/Del/1995 dated
15.06.2001; 3152/Del/1995, 3153/Del/1995 &
3154/Del/1995 dated 15.06.2001; 1207/Del/1996 &
1208/Del/1996 dated 03.12.2001.

2. Although the impugned orders have been passed on different dates but in view of the fact that the assessees are members of the same family and an identical issue has been raised in all these appeals, for the sake of convenience, these are taken up together and this order will govern all these appeals. However, we shall treat the facts of ITA No.31/2002 as illustrative.

3. The material facts, as emerging from the Tribunal's order are that the assessee, like the other two assessees is a Hindu Undivided Family, owning 1/5th share in the house property bearing No.25, Sardar Patel Marg, New Delhi.

. During the course of assessment proceedings for the assessment year 1991-92, the Assessing Officer felt that the rental income declared by the assessee in respect of their portion did not reflect the fair Annual Letting Value (ALV) of the property within the meaning of section 23(b) of the Act. He, therefore, referred the matter of valuation to the Valuation

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Officer under section 131(1)(d) of the Act. As against the ALV of Rs.60,000/- declared by the assessee in respect of the ground floor of the property, let out to M/s.S.R.F. Limited, the Valuation Officer determined the ALV of the property at Rs.15,42,400/-. However, while completing assessment, the Assessing Officer after making certain adjustments therein on account of unearned increase payable to the government computed the ALV of assessee's 1/5th share at Rs.12,22,579/- and framed the assessment accordingly.

Aggrieved, the assessee preferred appeal to the Commissioner of Income-tax (Appeals). The Commissioner vide his order dated 6 January 1995, pertaining to the assessment year 1991-92, remanded the matter back to the Assessing Officer with the following direction:

"20. The Assessing Officer is directed to redetermine the annual value of the property in accordance with my findings, he will limit the same to the higher of the following (a) the Municipal Valuation (b) the fair rent determinable under the Rent Control Act and (c) the actual rent paid by the assessee. This direction I feel fairly and reasonably gives effect to the pronouncements of the Supreme Court on the subject from time to time."

Being not satisfied with the said direction, the Revenue took the matter in further appeal to the



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affirmed the view taken by the Commissioner (Appeals).
Hence, the present appeals.

4. As many as nine questions, stated to be substantial questions of law have been formulated in the appeal memo but for the sake of brevity we do not propose to reproduce them here.

5. We have heard Mr.R.C.Pandey, learned senior Standing Counsel for the Revenue and Mr.D.N.Sawhney, learned counsel for the respondent.

6. It is vehemently submitted by Mr.Pandey that while directing the Assessing Officer to re-determine the annual letting value of the property under section 23(b) of the Act, the Commissioner of Income-tax (Appeals) [for short CIT(A)] and the Tribunal have lost sight of the amendment in the Delhi Rent Control Act, 1958 with effect from 1 December 1988. He would thus, urge that both the appellate authorities having failed to take into consideration a vital factor, their order involves substantial question of law. Mr.Sawhney, learned counsel for the respondent, on the other hand, while supporting the order passed by the Tribunal, would submit that from the afore-extracted direction of the CIT(A), it is evident that the issue raised by the revenue is without any basis.

7. We find substance in the stand of learned counsel for the assessee. A bare reading of the afore-extracted directions, leaves no room for any

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doubt that what is required to be taken into consideration by the Assessing Officer is the Rent Control Legislation, as in vogue at the end of the relevant previous year. In our view, there is no merit in the contention of learned counsel for the revenue that since the appellate authorities have not referred to the amendment in the said Act, it may be lost sight of by the Assessing Officer. In our opinion the direction given by the Commissioner (Appeals), affirmed by the Tribunal, is very specific and unambiguous. No fault can be founded with the order passed by the Tribunal on that score. Rather the entire gamut of determination of ALV would be open before the Assessing Officer in terms of the appellate orders.

8. We do not find any infirmity in the order passed by the Tribunal, warranting interference under the limited scope of appeal under Section 260A of the Act. In our opinion, no question of law much less a substantial question arises from the orders of the Tribunal. All the appeals are accordingly dismissed. There will, however, be no order as to costs.


D.K. JAIN, J.


MADAN B. LOKUR, J.

November 20, 2002.
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